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the claimant or eligible surviving beneficiary in writing, setting forth the reasons for the determination, and shall provide the claimant or eligible surviving beneficiary 60 days from the date of notification, or such greater period as the Assistant Director permits, to furnish additional records to satisfy the requirements of the Act and this part. Where appropriate, the Assistant Director may require the claimant or eligible surviving beneficiary to provide an authorization to release additional records as an alternative to, or in addition to, the claimant or eligible beneficiary furnishing such additional records. If the claimant or eligible beneficiary fails within 60 days or the greater period approved by the Assistant Director, to provide sufficient records or a valid release when requested by the Assistant Director, then the Assistant Director shall, without further review, issue a Decision denying the claim.

(d) *Decision.* The Assistant Director shall review each claim and issue a written Decision on each claim within 12 months of the date the claim was filed. The Assistant Director may request from any claimant, or from any individual or entity on behalf of the claimant, any relevant additional information or documentation necessary to complete the determination of eligibility under paragraphs (a), (b), or (c) of this section. The period beginning on the date on which the Assistant Director makes a request for such additional information or documentation and ending on the date on which the claimant or individual or entity acting on behalf of the claimant submits that information or documentation (or informs the Assistant Director that it is not possible to provide that information or that the claimant or individual or entity will not provide that information) shall not apply to the 12-month period. Any Decision denying a claim shall set forth reason(s) for the denial, shall indicate that the Decision of the Assistant Director may be appealed to the Assistant Attorney General, Civil Division, in writing within 60 days of the date of the Decision, or such greater period as may be permitted by the Assistant Attorney General, Civil Division,

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and shall identify the address to which the appeal should be sent.

§ 79.73 Appeals procedures.

(a) An appeal must be in writing and must be received by the Radiation Exposure Compensation Program within 60 days of the date of the Decision denying the claim, unless a greater period has been permitted. Appeals must be sent to the following address: Radiation Exposure Compensation Program, Appeal of Decision, U.S. Department of Justice, P.O. Box 146, Ben Franklin Station, Washington, DC 20044-0146.

(b) The claimant or eligible surviving beneficiary must set forth in the appeal the reason(s) why he or she believes that the Decision of the Assistant Director is incorrect.

(c) Upon receipt of an appeal, the Radiation Exposure Compensation Program shall forward the appeal, the Decision, the claim, and all supporting documentation to the Appeals Officer for action on the appeal. If the appeal is not received within the 60-day period, or such greater period as may be permitted, the appeal may be denied without further review.

(d) The Appeals Officer shall review any appeal and other information forwarded by the Program. Within 90 days after the receipt of an appeal, the Appeals Officer shall issue a Memorandum either affirming or reversing the Assistant Director's Decision or, when appropriate, remanding the claim to the Assistant Director for further action. The Memorandum shall include a statement of the reason(s) for such reversal, affirmance, or remand. The Memorandum and all papers relating to the claim shall be returned to the Radiation Exposure Compensation Program, which shall promptly inform the claimant or eligible surviving beneficiary of the action of the Appeals Officer. A Memorandum affirming or reversing the Assistant Director's Decision shall be deemed to be the final action of the Department of Justice on the claim.

(e) Before seeking judicial review of a decision denying a claim under the Act, an individual must first seek review by the designated Appeals Officer.

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Once the appeals procedures are completed, an individual whose claim for compensation under the Act is affirmed on appeal may seek judicial review in a district court of the United States.

§ 79.74 Representatives and attorney's fees.

(a) *Representation.* In submitting and presenting a claim to the Program, a claimant or beneficiary may, but need not, be represented by an attorney or by a representative of an Indian Tribe or tribal organization. Non-attorneys (other than representatives of an Indian Tribe or tribal organization) are not permitted to represent claimants or beneficiaries before the Program. To the extent that resources are available, the Assistant Director will provide assistance to all persons who file claims for compensation. Only qualified attorneys, as described in paragraph (c) of this section, may receive from a claimant or beneficiary any fee in connection with a successful claim.

(b) *Fees.* (1) Notwithstanding any contract, the attorney of a claimant or beneficiary, along with any assistants or experts retained by the attorney on behalf of the claimant or beneficiary, may not receive from a claimant or beneficiary any fee for services rendered in connection with an unsuccessful claim. The attorney of a claimant or beneficiary may recover costs incurred in connection with an unsuccessful claim.

(2) Notwithstanding any contract and except as provided in paragraph (b)(3) of this section, the attorney of a claimant or beneficiary, along with any assistants or experts retained by the attorney on behalf of the claimant or beneficiary, may receive from a claimant or beneficiary no more than 2% of the total award for all services rendered in connection with a successful claim, exclusive of costs.

(3)(i) If an attorney entered into a contract with the claimant or beneficiary for services before July 10, 2000, with respect to a particular claim, then that attorney may receive up to 10% of the total award for services rendered in connection with a successful claim, exclusive of costs.

(ii) If an attorney resubmits a previously denied claim, then that attorney

may receive up to 10% of the total award to the claimant or beneficiary for services rendered in connection with that subsequently successful claim, exclusive of costs. Resubmission of a previously denied claim includes only those claims that were previously denied and refiled under the Act.

(4) Any violation of paragraph (b) of this section shall result in a fine of not more than \$5,000.

(c) *Attorney qualifications.* An attorney may not represent a claimant or beneficiary unless the attorney is engaged in the private practice of law and an active member in good standing of the bar of the highest court of a state. Attorneys who are members of multiple state bars, and who are suspended, sanctioned, disbarred, or disqualified from the practice of law for professional misconduct in one state may not represent a claimant or beneficiary even though the attorney continues to remain in good standing of the bar of another state. If a claimant or beneficiary is represented by an attorney, then the attorney must submit the following documents to the Program along with the claim:

(1) A statement of the attorney's active membership in good standing of the bar of the highest court of a state; and

(2) A signed representation agreement, retainer agreement, fee agreement, or contract, documenting the attorney's authorization to represent the claimant or beneficiary. The document must acknowledge that the Act's fee limitations are satisfied.

[Order No. 2711-2004, 69 FR 13634, Mar. 23, 2004, as amended by Order 3185-2010, 75 FR 48275, Aug. 10, 2010]

§ 79.75 Procedures for payment of claims.

(a) All awards for compensation are made in the form of one time lump sum payments and shall be made to the claimant or to the legal guardian of the claimant, unless the claimant is deceased at the time of the payment. In cases involving a claimant who is deceased, payment shall be made to each eligible surviving beneficiary or to the legal guardian acting on his or her behalf, in accordance with the terms and conditions specified in the